HON'BLE THE CHIEF JUSTICE SRI G.S. SINGHVI
AND
HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

Writ Petition No.2874 of 2001

Between:

S. Venkata Kanaka Rathnam

... Petitioner

And

The Chief Engineer, Major Irrigation &
Command Area Development, Hyderabad
and others

... Respondents

:: ORDER::

Counsel for the Petitioner: Sri V.S.R. Anjaneyulu

Counsel for Respondents Nos.1 & 2: Government Pleader for Irrigation

Counsel for Respondent No.3: Smt.G. Jhansi

July 02, 2007

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Per G.S. Singhvi, CJ

In this petition filed as a piece of public interest litigation, Shri S. Venkata Kanaka Rathnam, resident of Veeraraghavamma Street, Seethannapet, Vijayawada has prayed for restraining Vijayawada Municipal Corporation (respondent No.3 herein) from converting the park known as "Desoddaraka Kasinadhuni Nageswara Rao Panthulu Park" into a commercial complex.

By an interim order dated 28.2.2001 passed in WPMP No.3641 of 2001, a Division Bench of this Court directed that the status quo obtaining as on that date shall maintained. That order has remained operative till this day.

After almost six years, the petitioner had change of his heart, apparently for extraneous reasons, and, therefore, he applied for withdrawal of the writ petition. However, keeping in view the larger public interest that the land earmarked or utilized for public purpose shall not be allowed to be converted into a commercial complex/centre, the Court declined to entertain the petitioner's request and called upon the respondents to file further affidavits.

On 15.6.2007, Smt.G. Jhansi, learned counsel representing the Municipal Corporation, made a request for adjournment to enable her to ascertain whether the Municipal Corporation is ready to give an undertaking to remove the offenced structure of the land. Thereafter, affidavit dated 21.6.2007 of Shri N. Gulzar, Commissioner, Municipal Corporation of Vijayawada has been filed. In his affidavit, Shri Gulzar has given out that he will initiate all necessary steps immediately to handover possession of the subject land to the Irrigation Department.

Smt.G. Jhansi orally made a statement that the structures made

on the land described as park will be removed before handing over vacant possession of site to the Irrigation Department.

In view of the above development, the writ petition is disposed of with the direction that the authorities of respondent No.3 shall handover vacant possession of the site to the Irrigation Department as early as possible, but latest within three months.

We would have saddled the petitioner with exemplary costs of Rs.50,000/-, but, keeping in view his age, we refrain from doing so.

G.S. SINGHVI, CJ

July 02, 2007

C.V. NAGARJUNA REDDY, J

svs